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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the matter of:)	
)	
PETITION TO AMEND VARIOUS)	Supreme Court No. R-20-0013
RULES OF PROCEDURE RELATED)	
TO CREATING THE VERBATIM)	SUPPLEMENT TO
RECORD OF JUDICIAL PROCEEDINGS)	PETITIONER'S REPLY
_____)	

Petitioner submits this Supplement to the Reply, which contains data that demonstrates the need for flexibility to create the court record in light of the shortage of court reporters, the COVID-19 pandemic, and other unforeseen events. Petitioner requests that the Court consider the data in this Supplement as if it were included in the initial Reply, timely filed on May 29, 2020.

I. Introduction

During the COVID-19 health emergency, Arizona's courts have acted to protect the health and safety of court participants, the public, and court employees, while meeting constitutional and statutory obligations. The pandemic has required courts to move most proceedings to virtual audio/video conferencing platforms. Through

a series of administrative orders¹ issued by Chief Justice Robert Brutinel, the courts have been authorized to capture the verbatim record for most all proceedings through the electronic recording (ER) functionality of these platforms. The COVID-19 health emergency and recent events have exacerbated the need for flexibility for courts to create the official court record.

The Superior Court in counties throughout the state was surveyed to determine the extent to which ER is being used to make the official court record in light of the COVID-19 pandemic; the types of proceedings for which it is used; and whether there have been any issues with the use of ER or the quality of the recording and ability to produce transcripts.

II. Number of Proceedings Using ER

The Superior Court in Maricopa County has used ER for several years to make the official record for all hearings and proceedings where a court reporter is not present. Maricopa County has 163 judicial officers and approximately the same number of active courtrooms. Between the timeframe of March 16 and May 17, 2020, the court held approximately 44,487 hearings. More than 90% of those hearings involved at least one participant appearing remotely, and less than 5% of the hearings held were covered by a court reporter.

¹ Administrative Orders 2020-60, 2020-70, 2020-75, and 2020-79.

The Superior Court in Gila County reports that it is using ER to create the official record for all hearings, except those proceedings that require a court reporter under Supreme Court Rule 30(b)(3). Across all three of its divisions, the court estimates that it has used ER for 30 to 60 hearings. The court has only one full-time court reporter on staff who is operating on an alternating schedule.

The Superior Court in Yavapai County reports that it is using ER to create the official record for civil cases when a court reporter is not available and in criminal cases in Early Disposition Court for two to four judges who hear about 100 cases per week.

The Superior Court in Cochise County reports that it used ER in three courtrooms for 14 hearings in May. Electronic recording was used for juvenile, dependency, criminal, civil, and domestic matters. The court indicated that it has been helpful to have ER capabilities in order to limit the number of people in the courtroom and to have it as a “stand-by” to allow court reporters to work from home and reduce exposure to the COVID-19 virus.

III. Transcript Production and Recording Quality

During the timeframe of March 1 to May 29, 2020, the Superior Court in Maricopa County produced 1,069 CD’s of court hearings, and 819 transcripts. The court has received only one piece of critical feedback over the past several years

regarding the quality of the recordings, which indicated that the attorneys were not speaking into the microphones.

The Superior Court in Gila County reports that it routinely produces transcripts from audio files, although no transcripts have been requested during the pandemic. The court further reports that it has not experienced any issues with its digital recording system that would not be considered routine.

The Superior Court in Yavapai County reports that no transcripts have been requested during the pandemic. There have been minor issues with the ER system related to video and audio, but a court reporter was present and the recordings of those hearings have not been requested or transcribed.

The Superior Court in Cochise County uses a system that provides a real time transcript for judges, but the court has not had any requests for transcripts during the pandemic. The court has had no complaints about the use of ER, although it has experienced some issues with loss of internet service.

IV. Conclusion

Petitioner appreciates the Court's consideration of this Supplement to the Reply and continues to emphasize the pressing need to provide trial courts flexibility in making the official court record, particularly during the pandemic response and in other circumstances requiring virtualization of court proceedings.

RESPECTFULLY SUBMITTED this 9th day of June 2020.

By /s/ David K. Byers
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